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of The Roman Catholic Bishop of Stockton

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO

In re:

THE ROMAN CATHOLIC BISHOP OF
STOCKTON, a California corporation sole,

Debtor-In-Possession.

Case No.: 14-20371-C-11

Chapter 11

DCN: FWP-10

**LIMITED OBJECTION OF THE
OFFICIAL COMMITTEE OF
UNSECURED CREDITORS TO
DEBTOR'S MOTION FOR ORDER: (1)
FIXING TIME FOR FILING PROOFS OF
CLAIM; (2) APPROVING CLAIM
FORMS; AND (3) APPROVING MANNER
AND FORM OF NOTICE**

Date: May 1, 2014

Time: 10:00 a.m.

Judge: Hon. Christopher M. Klein

Place: Courtroom 35

501 I Street, 6th Floor
Sacramento, CA

The Official Committee of Unsecured Creditors (the "Committee") appointed in the above-captioned case (the "Case") of The Roman Catholic Bishop of Stockton (the "Diocese" or the "Debtor"), hereby submits this *Limited Objection* (the "Limited Objection") of the Official Committee of Unsecured Creditors to Debtor's Motion for Order: (1) Fixing Time for Filing Proofs

1 of Claim; (2) Approving Claim Forms; and (3) Approving Manner and Form of Notice (the “Bar
2 Date Motion”). The Debtor has filed two related motions: the Bar Date Motion to establish bar dates
3 for general and sexual abuse claims; and the Debtor’s motion seeking the appointment of a future
4 claims representative for certain creditors and claims (the “FCR Motion”). The FCR Motion and
5 Bar Date Motion both address and define sexual abuse claims. Subject to this Limited Objection, the
6 Committee does not oppose the Bar Date Motion. In support of its Limited Objection, the
7 Committee respectfully states as follows:
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9
10 **LIMITED OBJECTION**

11 **A. This Bar Date Motion Should be Granted Only if the FCR Motion Simultaneously Is**
12 **Granted.**

13 The Committee believes that certain persons with sexual abuse claims should not lose their
14 right to a remedy due to failure to file a proof of sexual abuse claim by any bar date to be set in this
15 case (e.g., persons under 26 when the applicable bar date notice is provided and persons who at that
16 time are unable to recall the sexual abuse of them or are unable to make the connection between that
17 sexual abuse and their damage or injuries). The FCR Motion addresses the Committee’s concern by
18 providing that a future claims representative would be appointed to file a sexual abuse claim for such
19 persons. Absent the simultaneous granting of the FCR Motion, the Committee objects to the relief
20 sought by the Bar Date Motion because the persons that the FCR Motion is intended to protect could
21 not reasonably be expected to file a claim by any presently set bar date.
22

23 **B. The Forms of Notice and the Sexual Abuse Proof of Claim Form Need**
24 **Modification as to Filing Under Seal and for Clarity, Consistency and Accuracy; and**
They and the Order Hereon Need to Use a Consistent Definition for “Sexual Abuse.”

25 As set forth below, the sexual abuse proofs of claim should be filed under seal. The related
26 notice and proof of claim form should be correspondingly revised to so reflect. Additionally, the
27 Debtor, undoubtedly inadvertently, was not consistent in how it defined sexual abuse in its FCR
28

1 Motion, Bar Date Motion and the exhibits to the Bar Date Motion (a proof of claim form and two
2 proposed notices). Also, the Debtor did not ensure that the term was defined in each relevant
3 document. For these reasons and to ensure clarity, consistency and accuracy, the bar date notices
4 and proof of claim form require modifications.

5
6 Simultaneously with the filing hereof, the Committee is filing its *Exhibits To Limited*
7 *Objection Of The Official Committee Of Unsecured Creditors To Debtor's Motion For Order: (1)*
8 *Fixing Time For Filing Proofs Of Claim; (2) Approving Claim Forms; And (3) Approving Manner*
9 *And Form Of Notice* (the "Committee Exhibits"), which contain clean copies of all these documents
10 and redlines against the Debtor's versions that reflect the Committee's proposed modifications.¹

11 The Committee Exhibits are as follows:

- 12
13 a. The Sexual Abuse Proof of Claim Form (the "Sexual Abuse POC"): This is
14 Exhibit A (clean) and Exhibit D (redline) to the Committee Exhibits and was
15 Exhibit B to the Bar Date Motion;
- 16 b. The Notice of Bar Dates for Filing of General Proofs of Claim (the "General Bar
17 Date Notice"): This is Exhibit B (clean) and Exhibit E (redline) to the Committee
18 Exhibits and was Exhibit C to the Bar Date Motion; and
- 19 c. Notice of Bar Date for Filing of Sexual Abuse Proofs of Claim (the "Sexual
20 Abuse Bar Date Notice"): This is Exhibit C (clean) and Exhibit F (redline) to the
21 Committee Exhibits and was Exhibit D to the Bar Date Motion.

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23 The Committee Exhibits, incorporated herein by this reference, contain important changes
24 that are needed for the proof of claim form and notices, which, generally, are described as follows:

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27 ¹ The Committee shared a draft of its proposed changes with the Debtor, but the Debtor did not specifically respond to
28 the proposed changes before the deadline to object to the Motion. The Committee is hopeful of reaching agreement with the Debtor on the forms of these documents prior to the hearing on the Motion.

1 1. The Debtor should modify the definitions of “Sexual Abuse,” “Sexual
2 Abuse Claim” and “Sexual Abuse Claimant” and place them prominently in the proof of claim form
3 and notices. There is no reason for the term, “Sexual Abuse,” to be defined differently for purposes
4 of the Bar Date Motion and FCR Motion. Whatever claims are to be defined as being for “Sexual
5 Abuse” for purposes of getting a later bar date under the Bar Date Motion should be the same type of
6 claims which the future claims representative can file for certain specified persons. Thus, the
7 definitions need to be consistent throughout the Sexual Abuse Bar Date Notice, General Bar Date
8 Notice, and Sexual Abuse POC, as well as the order on the Bar Date Motion and the order on the
9 related FCR Motion. Also, to ensure creditors know which bar date applies to their claims, these
10 definitions need to be placed prominently or clearly referenced in the Sexual Abuse POC and the
11 Sexual Abuse Bar Date Notice. The Committee’s proposed definition is reflected on line 4.a. of the
12 introduction to the Sexual Abuse POC, and page 2 of the Sexual Abuse Bar Date Notice. (The
13 Committee’s definition is similar to the definition used by the Debtor in its Sexual Abuse Bar Date
14 Notice.) Similarly, the documents should use a consistent defined term and avoid switching between
15 the terms “Abuse” and “Sexual Abuse,” since such switching of terminology is confusing.

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18 2. The Debtor should use the term “Deadline” as opposed to “Bar Date.”
19 Many of the creditors and claimants in this Case are likely to be lay people who are unlikely to be
20 familiar with the term of art “Bar Date.” The term “Deadline” is more likely to make it clear that
21 there is a date certain by which parties must assert claims.

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23 3. The provisions for filing under seal sexual abuse claims should be
24 indicated in the Sexual Abuse Bar Date Notice and in the Sexual Abuse POC.

25 **C. The Debtor Should Implement Reasonable**
26 **Procedures for the Filing of Sexual Abuse Claims Under Seal**

27 The Committee understands that the Court requires that all Sexual Abuse POCs be filed with
28 the Court, rather than directly with the Debtor’s claims agent as the Bar Date Motion proposes. As a

1 result, the Committee alternatively proposes that procedures be implemented, in consultation with
2 the Clerk's Office, to assure that all Sexual Abuse POC's are filed under seal and shared only with
3 Permitted Parties (as defined in the Bar Date Motion). The Committee is presently sharing its
4 specific suggestions and views with the Debtor, has an understanding that the Debtor agrees in
5 concept, and that the Debtor is reaching out to the Clerk's office. The Committee reserves its rights
6 to object or respond to any confidentiality procedures that may be proposed.
7

8 **D. The Sexual Abuse Claim to be Filed by the Future Claims Representative Should**
9 **be Expressly Excepted from the Effect of the Order Approving the Bar Date Motion.**

10 Although the Debtor's filing of the FCR Motion appears to reflect its intention that the
11 future claims representative will be able to file a proof of claim for sexual abuse claims of those he
12 represents, the Committee urges that the Court provide in its order approving the Bar Date Motion
13 express language clarifying that the bar dates being set do not apply to any proof of claim to be filed
14 by the future claims representative.

15 Dated: April 16, 2014

PACHULSKI STANG ZIEHL & JONES LLP

17 By: /s/ Robert B. Orgel
18 James I. Stang
19 Robert B. Orgel
20 Gillian N. Brown

21 Counsel for The Official Committee of Unsecured
22 Creditors of The Roman Catholic Bishop of
23 Stockton
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